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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Pre Application

Inventor(s): Zucherman, et al.  
Appl. No.: 10/730,717  
Confirm. No.: 3955  
Filed: December 8, 2003  
Title: SYSTEM AND METHOD FOR REPLACING  
DEGENERATED SPINAL DISKS

PATENT APPLICATION

Art Unit: 3738  
Examiner: Unknown

Customer No. 23910

**CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8**

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on June 14, 2004.

(Attorney Signature)

Michael L. Robbins, Reg. No. 54,774  
Signature Date: June 14, 2004

**TRANSMITTAL LETTER**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted with this communication in connection with the above-identified application is the following:

✓ A Power of Attorney by Assignee under 37 C.F.R. §§3.71, 3.73(b).

No fee is required with this communication.

Respectfully submitted,

Date: 6/14/04

By:   
Michael L. Robbins  
Reg. No. 54,774

Customer No. 23910  
FLIESLER MEYER LLP  
Four Embarcadero Center, Fourth Floor  
San Francisco, California 94111-4156  
Telephone (415) 362-3800



THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventors: Zucherman, et al.

Appl. No.: 10/730,717

Confirm. No.: 3955

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Title: SYSTEM AND METHOD FOR REPLACING  
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PATENT APPLICATION

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Customer No.: 23910

**POWER OF ATTORNEY BY ASSIGNEE UNDER 37 C.F.R. §§ 3.71, 3.73(b)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The below-identified Assignee is the owner of the entire right, title and interest in the above-identified patent application by virtue of an assignment from the inventors.

\_\_\_\_\_ The Assignment was recorded in the United States Patent and Trademark Office at Reel  
\_\_\_\_, Frames \_\_\_\_ - \_\_\_\_, or

✓ \_\_\_\_\_ A true copy of the Assignment is attached hereto, the original of which has been forwarded  
to the United States Patent and Trademark Office for recording.

The undersigned (whose title is supplied below) is empowered to sign this statement on behalf of the Assignee.

Assignee hereby appoints Sheldon R. Meyer, Reg. No. 27,660, Michael L. Robbins, Reg. No. 54,774, and other attorneys of FLIESLER MEYER LLP, Customer No. 23910, to prosecute this application and transact all business in the United States Patent & Trademark Office connected therewith; said appointment to be to the exclusion of the inventors and the inventors' attorney(s) in accordance with the provisions of 37 C.F.R. §3.71.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Please address all correspondence to:

Sheldon R. Meyer  
FLIESLER MEYER LLP  
Four Embarcadero Center, Fourth Floor  
San Francisco, CA 94111-4156  
Telephone: (415) 362-3800

Please direct all telephone calls to:

Michael L. Robbins

Assignee: \_\_\_\_\_ St. Francis Medical Technologies, Inc.

Assignee Type: \_\_\_\_\_ Corporation

Signor's Name: \_\_\_\_\_ Henry A. Klyce

Signor's Title: \_\_\_\_\_ President

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ May 20, 2004

## JOINT TO CORPORATE ASSIGNMENT

WHEREAS, the undersigned Inventors:

- (1) James F. Zucherman,  
a resident of 3035 Pierce Street, San Francisco, California 94123; and
- (2) Ken Y. Hsu,  
a resident of 52 Clarendon Avenue, San Francisco, California 94114; and
- (3) Charles J. Winslow,  
a resident of 25 Hilton Court, Walnut Creek, California 94595; and
- (4) Scott A. Yerby,  
a resident of 1333 Birch Street, Montara, California 94037; and
- (5) John J. Flynn,  
a resident of 1458 Santa Clara Avenue, Concord, California 94519; and
- (6) Steve Mitchell,  
a resident of 776 Duke Circle, Pleasant Hill, California 94523; and
- (7) John A. Markwart,  
a resident of 4808 Heyer Avenue, Castro Valley, California 94552;

have invented certain new and useful improvements in:

### SYSTEM AND METHOD FOR REPLACING DEGENERATED SPINAL DISKS

and have executed a declaration or oath for an application for a United States patent disclosing and identifying the invention, said invention having been filed on the 8<sup>th</sup> day of December, 2003, and assigned U.S. Patent Application No. 10/730,717.

WHEREAS St. Francis Medical Technologies, Inc. (hereinafter termed "Assignee"), a corporation of the State of Delaware, having a place of business at 960 Atlantic Avenue, Suite 102, Alameda, California 94501, wishes to acquire the entire right, title and interest in and to said application and the invention disclosed therein, and in and to all embodiments of the invention, heretofore conceived, made or discovered jointly or severally by said Inventors (all collectively hereinafter termed "said invention"), and in and to any and all patents, certificates of invention and other forms of protection thereon (hereinafter termed "patents") applied for or granted in the United States and/or other countries.

NOW THEREFORE, for good and valuable consideration acknowledged by each of said Inventors to have been received in full from said Assignee:

1. Said Inventors do hereby sell, assign, transfer and convey to said Assignee, the entire right, title and interest (a) in and to said application and said invention; (b) in and to all rights to apply in any or all countries of the world for patents, certificates of inventions or other governmental grants on said invention, including the right to apply for patents pursuant to the International Convention for the Protection of Industrial Property or pursuant to any other convention, treaty, agreement or understanding; (c) in and to any and all

applications filed and any and all patents, certificates of inventions or other governmental grants granted on said invention in the United States or any other country, including each and every application filed and each and every patent granted on any application which is a division, substitution, or continuation of any of said applications; (d) in and to each and every reissue or extension of any of said patents; and (e) in and to each and every patent claim resulting from a reexamination certificate for any and all of said patents.

2. Said Inventors hereby jointly and severally covenant and agree to cooperate with said Assignee to enable said Assignee to enjoy to the fullest extent the right, title and interest herein conveyed in the United States and other countries. Such cooperation by said Inventors shall include prompt production of pertinent facts and documents, giving of testimony, executing of petitions, oaths, specifications, declarations or other papers, and other assistance all to the extent deemed necessary or desirable by said Assignee (a) for perfecting in said Assignee the right, title and interest herein conveyed; (b) for complying with any duty of disclosure; (c) for prosecuting any of said applications; (d) for filing and prosecuting substitute, divisional, continuing or additional applications covering said invention; (e) for filing and prosecuting applications for reissue of any of said patents; (f) for interference or other priority proceedings involving said invention; and (g) for legal proceedings involving said invention and any applications therefor and any patents granted thereon, including without limitation opposition proceedings, cancellation proceedings, priority contests, public use proceedings, reexamination proceedings, compulsory licensing proceedings, infringement actions and court actions; provided, however, that the expense incurred by said Inventors in providing such cooperation shall be paid for by said Assignee.

3. The terms and covenants of this Assignment shall inure to the benefit of said Assignee, its successors, assigns and other legal representatives, and shall be binding upon said Inventors, their respective heirs, legal representatives and assigns.

4. Said Inventors hereby jointly and severally warrant and represent that they have not entered and will not enter into any assignment, contract, or understanding in conflict herewith.

IN WITNESS WHEREOF, the said Inventors have executed this instrument on the date as given below and delivered this instrument to said Assignee:

\_\_\_\_\_

Date

(1) \_\_\_\_\_

James F. Zucherman

State of

California

County of

San Francisco

On April 19, 2004 before me, NAS LOZANI

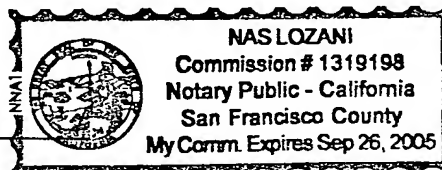
(name and title of officer)

personally appeared James F. Zucherman, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

NAS Lozani



\*\*\*\*\*

4-19-2004  
Date

(2) Ken Y. Hsu  
Ken Y. Hsu

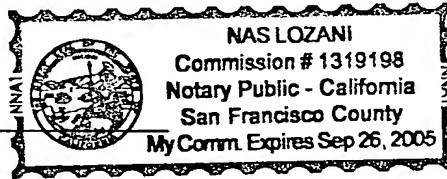
State of California  
County of San Francisco

On April 19, 2004 before me, NAS LOZANI  
(name and title of officer)

personally appeared Ken Y. Hsu, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Nas Lozani



\*\*\*\*\*

\_\_\_\_\_  
Date

(3) \_\_\_\_\_  
Charles J. Winslow

State of \_\_\_\_\_  
County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_  
(name and title of officer)

personally appeared Charles J. Winslow, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

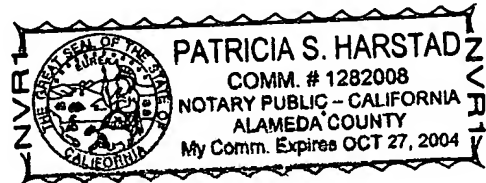
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4.28.04  
Date  
State of California  
County of Alameda  
On April 28 2004 before me, Patricia S. Harstad, Notary Public  
(name and title of officer)

personally appeared Scott A. Yerby, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~he~~ she/they executed the same in ~~his~~ her/their authorized capacity(ies), and that by ~~his~~ her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Signature Patricia S. Harstad



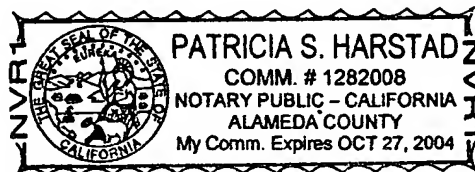
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4.28.04  
Date  
State of California  
County of Alameda  
On April 28, 2004 before me, Patricia S. Harstad, Notary Public  
(name and title of officer)

personally appeared John J. Flynn, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~he~~ she/they executed the same in ~~his~~ her/their authorized capacity(ies), and that by ~~his~~ her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Signature Patricia S. Harstad

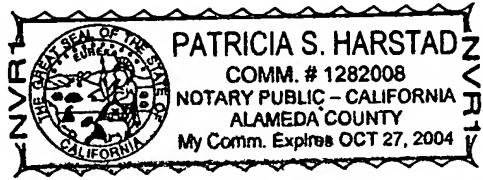


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4.28.04  
 Date \_\_\_\_\_  
 State of California  
 County of Alameda  
 On April 28<sup>th</sup> 2004 before me, Patricia S. Harstad, Notary Public  
 (name and title of officer)

personally appeared Steve Mitchell, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.  
 Signature Patricia S. Harstad

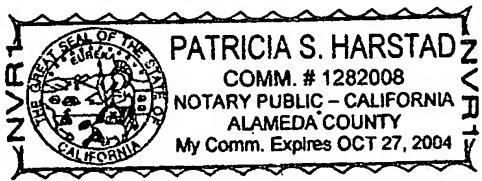


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APRIL 29, 2004  
 Date \_\_\_\_\_  
 State of California  
 County of Alameda  
 On April 29<sup>th</sup> 2004 before me, Patricia S. Harstad, Notary Public  
 (name and title of officer)

personally appeared John A. Markwart, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.  
 Signature Patricia S. Harstad



\*\*\*\*\*



\_\_\_\_\_  
Date (2) Ken Y. Hsu  
State of \_\_\_\_\_ )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_  
(name and title of officer)  
personally appeared Ken Y. Hsu, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

\*\*\*\*\*

4/28/04  
Date (3) Charles J. Winslow  
Charles J. Winslow

State of California  
County of Alameda

On April 28<sup>th</sup> 2004 before me, Patricia S. Harstad  
(name and title of officer)  
Notary Public

personally appeared Charles J. Winslow, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Patricia S. Harstad



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